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| 10/821,099 | 04/07/2004 | Sean Christopher Endler | 86605 7114 | 8955 |
| 37123 7590 03/18/2008 FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE SUITE 1600 CHICAGO, IL 60603 | | | | |
| EXAMINER | | | | |
| BEITZ, JACOB F | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,099

Applicant(s)

ENDLER ET AL.

Examiner

Jacob F. Betit

Art Unit

2164

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 20-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 20-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Remarks

1. In response to communications filed on 18 December 2007, claims 1, 14, 20, 25, 26, 28, and 29 are amended per applicant's request. Claims 1-14 and 20-29 are presently pending in the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-14 and 20-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

4. The amendments to the specification add new matter that would have not been obvious to one of ordinary skill in the art at the time of the invention. Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) (“[the] specification, having described the whole, necessarily described the part remaining.”). See also *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff’d mem.*, 738 F.2d 453 (Fed. Cir. 1984). The mere absence of a

positive recitation is not basis for an exclusion. Any claim containing a negative limitation which does not have basis in the original disclosure should be rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

5. The applicant has attempted to amend the specification to include “temporal and non-temporal attributes” by stating that the specification contained elements that could have been considered temporal and non-temporal. By stating “non-temporal” the applicant is excluding previously disclosed embodiments “event time/date” and “event duration”, but also including more than what was previously disclosed as part of the event profile. That is, “non-temporal” could include “event cost”, “event name”, “event costume type”, “event planner”, or any number of other event related data that was not previously disclosed in the specification. If the applicant wishes to exclude the embodiments of “event duration” or “event time/date”, the applicant should positively recite a selection of other event related data to be chosen from a list to avoid adding new matter. For example, in claim 1 --detecting an event that has a location or participants associated with it--.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 4-6, 8-14, and 20-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Chang (U.S. patent No. 2003/0050982 A1).

As to claim 1, Chang teaches a method comprising:

detecting an event having a non-temporal attribute (see paragraph 0011, 0014, 0015, and 0017);

searching for an event profile corresponding to the event using the non-temporal attribute (see paragraph 0014 and 0016, where both the user identifier and the time stamp are used in finding the event profile);

detecting content transmitted by a participant of the event and description information corresponding to the content (see paragraph 0014); and

associating the content with the event based on the description information and the event profile (see paragraph 0012, 0015, and 0016).

As to claim 2, Chang teaches further comprising matching the description information with the event profile (see paragraph 0014-0015).

As to claim 4, Chang teaches wherein the event profile includes an event time (see paragraph 0014-0015).

As to claim 5, Chang teaches wherein the event profile includes an event duration (see paragraph 0014-0015).

As to claim 6, Chang teaches wherein the event profile includes a listing of event participants (see paragraph 0023).

As to claim 8, Chang teaches wherein the description information includes a time (see paragraph 0014-0015).

As to claim 9, Chang teaches wherein the description information includes an author (see paragraph 0014-0015).

As to claim 10, Chang teaches wherein the content is a digital image (see paragraph 0011).

As to claim 11, Chang teaches wherein the content is one of a video media, an audio media, a textual media, and a graphical media (see paragraph 0011).

As to claim 12, Chang teaches further comprising storing the event profile (see paragraphs 0016-0017).

As to claim 13, Chang teaches further comprising storing the description information with the content (see paragraph 0016).

As to claim 14, Chang teaches a system comprising:

means for detecting an event having a non-temporal attribute (see paragraph 0011, 0014, 0015, and 0017);

means for searching for an event profile corresponding to the event using the non-temporal attribute (see paragraph 0014 and 0016, where both the user identifier and the time stamp are used in finding the event profile);

means for detecting content relating to the event and transmitted by a participant of the event and description information corresponding to the content (see paragraph 0014); and

means for associating the content with the event based on the description information and the event profile (see paragraph 0012 and 0015).

As to claim 20, Chang teaches a system, comprising:

an interface module to receive content and description information corresponding to the content, wherein the content is relating to an event is captured and transmitted by a participant of the event (see paragraph 0014);

a storage module to store a record containing an event profile having a non-temporal attribute describing an event (see paragraph 0011 and 0015-16); and

a content categorization module for matching the content with the event using the non-temporal attribute and the description information (see paragraph 0012 and 0015).

As to claim 21, Chang teaches further comprising an event detection module to detect the event (see paragraph 0011 and 0015).

As to claim 22, Chang teaches wherein the storage module stores the description information and the content (see paragraph 0016).

As to claim 23, Chang teaches further comprising an access control module to selectively allow a user to view the content (see paragraph 0016).

As to claim 24, Chang teaches wherein the access control module allows the user to view the content when the user is a participant listed in the event profile associated with the event (see paragraph 0023).

As to claim 25, Chang teaches a computer-readable medium having computer executable instructions for performing a method comprising:

detecting an event comprising a plurality of participants and storing an event profile having a non-temporal attribute (see paragraph 0011 and 0015-16);

receiving content relating to the event having the non-temporal attribute from one of the plurality of participants (see paragraph 0014);

receiving a request to access content from a user (see paragraph 0016);

searching for an event profile corresponding to the content (see 0023);

matching the content with the event profile (see paragraph 0014-15); and
displaying the content based on the user and the event profile (see paragraph 0016 and 0023).

As to claim 26, Chang teaches a method comprising:
receiving an event profile comprising at least one non-temporal attribute relating to an event (see paragraph 0011 and 0015-16);
receiving content and corresponding content description information comprising at least one non-temporal attribute related to the content (see paragraph 0014); and
associating the content with the event when the at least one non-temporal attribute related to the event matches the at least one attribute related to the content (see paragraph 0012 and 0015).

As to claim 27, Chang teaches wherein the event comprises multiple participants and the content having been received is transmitted by one of the multiple participants (see paragraph 0023).

As to claim 28, Chang teaches further comprising:
displaying the content when requested by a participant of the event, wherein the at least one non-temporal attribute related to the event is a list of participants of the event (see paragraph 0016 and 0022).

As to claim 29, Chang teaches further comprising:

associating the content with the event when the at least one non-temporal attribute related to the content and the at least one attribute related to the event match by one of:

an author of the content and a participant of the event (see paragraph 0014);

a time and date of a capturing of the content and a time and date of the event (see paragraphs 0014-0015); and

a location of the capturing of the content and a location of the event;

wherein the at least one attribute related to the event comprises at least one of the event location, the event time and date, the event duration and the participant and wherein the at least one non-temporal attribute related to the content comprises at least one of the author of the content, the time and date of the capturing of the content and the location of the capturing of the content (see paragraphs 0014-0015).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Shiota et al. (U.S. patent No. 2004/0135904 A1).

As to claim 3, Chang does not distinctly disclose wherein the event profile includes an event location.

Shiota et al. teaches this, see paragraph 0010-13. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Chang to include the teachings of Shiota et al. because these teachings would allow the images to be identified based on image information.

As to claim 7, Chang does not distinctly disclose wherein the description information includes a capture location.

Shiota et al. teaches this, see paragraph 0010-13. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Chang to include the teachings of Shiota et al. because these teachings would allow the images to be identified based on image information.

Response to Arguments

10. Applicant's arguments with respect to claims have been considered but are not deemed persuasive.

In response to the applicant's arguments that "Chang's inspection fails to disclose or suggest searching for an event profile using non-temporal attributes", the arguments have been fully considered, but are not deemed persuasive. While Chan uses "time stamp information" to inspect for calendar entries, this information is also inspected based on "the user of the recording device" (see paragraph 0014). Therefore while Chang uses "non-temporal" information when doing his searching, he also uses non-temporal information. It is noted that while the claims say a non-temporal attribute must be used, they do not prohibit a temporal attribute from being used.

Further in view of the rejections given under 35 USC §112 above, the original disclosure does not show support for the amendments made in the specification or the claims.

Further still, it is not known how the applicant intends the match in claim 29 to be both a non-temporal attribute and optionally "a time and date of a capturing of the content and a time and date of the event".

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. Betit whose telephone number is (571)272-4075. The examiner can normally be reached on Monday through Friday 10:30 am to 6:30 pm.

Art Unit: 2164

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

jfb

11 Mar 2008

/Charles Rones/

Supervisory Patent Examiner, Art Unit 2164